

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

INDIAN HARBOR INSURANCE COMPANY,

Plaintiff/Counter-Defendant,

v.

CIVIL ACTION NO. 2:10-CV-02366-cgc

ALTERRA CAPITAL GROUP, LLC, a/k/a
ALTERRA CAPITAL GROUP, LLC – MEMPHIS;
2861 KIMBALL APARTMENTS, LLC;
WINBRANCH II, LLC; and
IMPERIAL CAPITAL BANK,

Defendants/Counter-Plaintiffs.

NOTICE AND STIPULATION OF DISMISSAL

The parties, by counsel, now give notice that all matters in controversy have now been resolved and stipulate as follows:

1. Neither City National Bank nor its predecessor in interest, Imperial Capital Bank, has any interest in the property at 2861 Kimball Avenue nor does either have an interest in the subject policy of insurance;
2. All matters in controversy between the parties have been resolved thus rendering the Declaratory Judgment Action moot; and,
3. All matters in controversy between the parties have been resolved and the Counter-Claim should thus be dismissed with prejudice.

WHEREFORE, the parties pray that the Court enter an Order declaring that neither City National Bank nor its predecessor, Imperial Capital Bank, have any interest in the subject property at 2861 Kimball Avenue or the subject policy of insurance; that the

Declaratory Judgment Action is now moot and should, therefore be dismissed; and, that the Counter-Claim should be dismissed with prejudice.

s/Michael G. Derrick

MICHAEL G. DERRICK (#14820)
W. SCOTT HICKERSON (#26369)
SHUTTLEWORTH WILLIAMS, PLLC
22 North Front Street, Suite 850
Memphis, Tennessee 38103
mderrick@shuttleworthwilliams.com
shickerson@shuttleworthwilliams.com
(901)526-7399

**Attorneys for Plaintiff/Counter-
Defendant, Indian Harbor Insurance
Company**

s/Jeffrey E. Nicoson (w/permission)

THOMAS P. CASSIDY (#13186)
R. SCOTT VINCENT (#21055)
J. GREGORY GRISHAM (#13810)
FRANK L. DAY (#25345)
JEFFREY E. NICOSON (#27445)
LEITNER, WILLIAMS, DOOLEY
& NAPOLITAN, PLLC
80 Monroe Avenue, suite 800
Memphis, Tennessee 38103
(901)527-0214

Tom.cassidy@leitnerfirm.com
Scott.vincent@leitnerfirm.com
Greg.grisham@leitnerfirm.com
frank.day@leitnerfirm.com
jeff.nicoson@leitnerfirm.com

**Attorneys for Defendants/Counter-
Plaintiffs**

s/E. Franklin Childress, Jr. (w/permission)

E. FRANKLIN CHILDRESS, JR. (#7040)
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC
165 Madison Avenue, Suite 2000
Memphis, Tennessee 38103
(901)526-2000

fchildress@bakerdonelson.com

Attorneys for Imperial Capital Bank